

EXHIBIT “7”

WALGREEN CO. FED.R. CIV. P. 30(B)(6) DEPOSITION
DESIGNEE: JEFFREY KRUCKMAN

Jeffrey Todd Kruckman

May 13, 2009

CONTAINS CONFIDENTIAL PORTIONS

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

LUV N' CARE, LTD. and)	
ADMAR INTERNATIONAL,)	
INC.,)	
Plaintiffs,)	
-vs-)	Case No.
WALGREEN CO. and KMART)	08 CIV 4457 (DC)
CORP.,)	
Defendants.)	

The 30(b)(6) videotaped deposition of WALGREEN COMPANY by JEFFREY TODD KRUCKMAN, called for examination, taken pursuant to the Federal Rules of Civil Procedure of the United States District Courts pertaining to the taking of depositions, taken before NANCY A. GUIDOLIN, CSR No. 84-2531, a Notary Public within and for the County of DuPage, State of Illinois, and a Certified Shorthand Reporter of said state, at Walgreen Co., 102 Wilmot Road, 5th Floor, Deerfield, Illinois, on the 13th day of May, A.D. 2009, commencing at 4:49 p.m.

Jeffrey Todd Kruckman

May 13, 2009

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1 Q. Okay. With reference to Exhibit 9, what
2 product displayed in Exhibit 9 is WIC NBR 582399?

3 MR. CHAPMAN: Objection to form.

4 MR. GALE: What number did you say?

5 MR. COHEN: I said 582399.

6 BY THE WITNESS:

7 A. Based on the image it appears to be
8 582399 in that image.

9 BY MR. COHEN:

10 Q. Which image? Could you tell me what
11 image that you are referring to.

12 A. Exhibit 9 -- I am sorry. Exhibit 8. I
13 am sorry.

14 Q. I am referring to Exhibit 9.

15 A. What is Exhibit 9?

16 Q. It's the Complaint.

17 A. Did I lose one?

18 MR. GALE: Let's see. I may have copped it.

19 BY THE WITNESS:

20 A. 582399 appears to be in Exhibit C.

21 BY MR. COHEN:

22 Q. Is it the product on the left or the
23 product on the right?

24 A. I can't be sure.

DEPOSITION OF JEFFREY KRUCKMAN INDIVIDUALLY
MAY 12-13, 2009

Jeffrey Todd Krukman

May 12, 2009

CONTAINS CONFIDENTIAL PORTIONS

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK.

LUV N' CARE, LTD. and
ADMAR INTERNATIONAL,
INC.,

Plaintiffs,

-vs-

Case No.

WALGREEN CO. and KMART
CORP.,

08 CIV 4457 (DC)

Defendants.

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The videotaped deposition of JEFFREY  
TODD KRUKMAN, called for examination, taken  
pursuant to the Federal Rules of Civil Procedure of  
the United States District Courts pertaining to the  
taking of depositions, taken before NANCY A.  
GUIDOLIN, CSR No. 84-2531, a Notary Public within  
and for the County of DuPage, State of Illinois,  
and a Certified Shorthand Reporter of said state,  
at Walgreen Co., 104 Wilmot Road, 2nd Floor,  
Deerfield, Illinois, on the 12th day of May, A.D.  
2009, commencing at 2:02 p.m.

Jeffrey Todd Krukman

May 12, 2009

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1 MR. BURATTI: Objection; compound.

2 BY THE WITNESS:

3 A. I had the baby sundries category, which  
4 was children. I have had diapers, which we  
5 classify as a category, baby formula, vaporizers  
6 and humidifiers, lawn furniture, lawn and garden,  
7 and that's all that I can recall at this point that  
8 involved children's products.

9 BY MR. COHEN:

10 Q. Let's start with baby sundries. What's  
11 included within that category?

12 A. The product categories would include  
13 bottles, cups, pacifiers, lotions, baths, oral pain  
14 relief products and miscellaneous other -- syringes  
15 and things of that nature.

16 Q. Okay. From '94 to the present during  
17 what time frame were you involved in baby sundries?

18 A. December of 2005 through March of 2009.

19 Q. In March of 2009 did you switch to  
20 another category?

21 MR. BURATTI: Objection; misleading.

22 BY THE WITNESS:

23 A. I did not switch to another category.  
24 My categories were adjusted.

Jeffrey Todd Kruckman - Volume II

May 13, 2009

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

LUV N' CARE, LTD. and                    )  
ADMAR INTERNATIONAL,                    )  
INC.,                                        )  
                                          Plaintiffs,    )  
                                          - vs-                    ) Case No.  
WALGREEN CO. and KMART                ) 08 CIV 4457 (DC)  
CORP.,                                     )  
                                          Defendants.        )

May 13, 2009

9:02 a.m.

THIS DEPOSITION CONTAINS CONFIDENTIAL INFORMATION

The videotaped deposition of JEFFREY  
TODD KRUCKMAN resumed pursuant to adjournment at  
Walgreen Co., 104 Wilmot Road, 2nd Floor,  
Deerfield, Illinois.



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1 Q. So you are approving it for look,  
2 correct?

3 MR. BURATTI: Object to form.

4 BY THE WITNESS:

5 A. Correct.

6 BY MR. COHEN:

7 Q. What about for shape?

8 MR. BURATTI: Object to form.

9 BY THE WITNESS:

10 A. Approving it. I don't really care that  
11 much.

12 BY MR. COHEN:

13 Q. You are approving it, though, correct?

14 MR. BURATTI: Object to form.

15 BY THE WITNESS:

16 A. I am approving to be sure that it is a  
17 cup, a sippy cup, yes.

18 BY MR. COHEN:

19 Q. Of the shape that meets your approval,  
20 correct?

21 MR. BURATTI: Object to form.

22 BY THE WITNESS:

23 A. That it meets with mom's shape for  
24 approval as a cup.

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1 BY MR. COHEN:

2 Q. Did you speak to any moms?

3 MR. BURATTI: Object to form.

4 BY THE WITNESS:

5 A. I speak to moms every day.

6 BY MR. COHEN:

7 Q. About this particular product?

8 A. I don't recall.

9 Q. Did you speak with respect to your  
10 commercialization of this product with anyone else  
11 in the course of your approval process?

12 MR. BURATTI: Object to form.

13 BY THE WITNESS:

14 A. I am sure that I spoke to them, but I  
15 don't know why I would have -- I speak to everybody  
16 every day.

17 BY MR. COHEN:

18 Q. Who would you speak to to get approval  
19 for this particular product outside of the company?

20 MR. BURATTI: Object to form.

21 BY THE WITNESS:

22 A. No one.

23 BY MR. COHEN:

24 Q. Would you be approving it for function?

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1 MR. BURATTI: Object to form.

2

3 BY THE WITNESS:

4 A. It's assumed function.

5 BY MR. COHEN:

6 Q. Would you be approving it for quality?

7 A. It's assumed quality.

8 Q. Would you assume the quality?

9 A. Depending upon the supplier, yes.

10 Q. From Atico would you assume the quality?

11 MR. BURATTI: Object to form.

12 BY THE WITNESS:

13 A. I assume that they would bring me the  
14 best quality products that they can for the value  
15 that I am trying to achieve.

16 BY MR. COHEN:

17 Q. Do you tell them the quality that you  
18 want?

19 MR. BURATTI: Object to form.

20 BY THE WITNESS:

21 A. Yes.

22 BY MR. COHEN:

23 Q. Do you tell them the function that you  
24 want?

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1 BY THE WITNESS:

2 A. It's immaterial.

3 BY MR. COHEN:

4 Q. Not for the purposes of this deposition.  
5 Answer the question.

6 MR. BURATTI: Object to form, argumentative.

7 BY THE WITNESS:

8 A. What is the question?

9 MR. COHEN: Do you want to read back the  
10 question?

11 (WHEREUPON, the record was read  
12 as requested.)

13 BY THE WITNESS:

14 A. It looks like a sippy cup.

15 BY MR. COHEN:

16 Q. Are all sippy cups equally nice in terms  
17 of appearance?

18 A. It depends on your perception of them.

19 Q. Your perception.

20 MR. BURATTI: Object to form.

21 BY THE WITNESS:

22 A. No.

23 BY MR. COHEN:

24 Q. You think some are nicer than others?

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1 MR. BURATTI: Object to form.

2 BY THE WITNESS:

3 A. Yes.

4 BY MR. COHEN:

5 Q. Is the Wagi product in Exhibit 13 nicer  
6 than other sippy cups in the market in terms of the  
7 appearance of its product?

8 MR. BURATTI: Object to form.

9 BY THE WITNESS:

10 A. I would have to see all of the sippy  
11 cups in the market to make that judgment, and I  
12 don't have that available to me.

13 BY MR. COHEN:

14 Q. Based on the products in the market that  
15 you are aware of as a buyer, is the Wagi sippy cup  
16 nicer in appearance than other products in the  
17 marketplace?

18 MR. BURATTI: Object to form.

19 BY THE WITNESS:

20 A. Some, yes.

21 BY MR. COHEN:

22 Q. Which ones?

23 A. I have no idea.

24 Q. You said it's nicer in appearance than

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1 Q. What about the appearance of the  
2 product?

3 A. The appearance is superficial and not  
4 necessarily indicative of quality.

5 Q. Is appearance one of the factors that  
6 you take -- excuse me, took into account when  
7 making Exhibit 13?

8 MR. BURATTI: Object to form.

9 BY THE WITNESS:

10 A. I didn't make Exhibit 13.

11 BY MR. COHEN:

12 Q. Was appearance one of the factors that  
13 you took into account when you determined whether  
14 or not you would buy the product in Exhibit 13?

15 A. Yes.

16 Q. Was the packaging one of the factors  
17 that you took into account in determining whether  
18 or not to buy the product listed in Exhibit 13?

19 A. It was a factor, but the packaging could  
20 be completely different, and I still would take it.

21 Q. But was a factor in this particular  
22 case?

23 A. The main factor was our \$3 price point.

24 Q. So it was important to you to have a \$3

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1 Exhibit 13 and the Nuby product apart?

2 MR. BURATTI: Object to form.

3 BY THE WITNESS:

4 A. I don't know.

5 BY MR. COHEN:

6 Q. So you don't know whether a consumer  
7 could tell it apart or not?

8 MR. BURATTI: Object to form and  
9 argumentative.

10 BY THE WITNESS:

11 A. No.

12 BY MR. COHEN:

13 Q. So if you don't know whether they can  
14 tell it apart, what do you think that a sign would  
15 indicate if it were by a sign that said Luv n'  
16 care?

17 MR. BURATTI: Object to form and  
18 argumentative.

19 BY THE WITNESS:

20 A. I would think that if it were by a sign,  
21 the consumer would either pick up the item as it  
22 was a mistake or not. I don't know what they would  
23 do.

24

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1 Q. Did you ever use any other sources for  
2 Wagi branded sippy cups?

3 MR. BURATTI: Object to form.

4 BY THE WITNESS:

5 A. I don't believe so. I don't know.

6 BY MR. COHEN:

7 Q. You say that you had to find in the  
8 e-mail -- strike that.

9 Referring back to the e-mail, it states  
10 that, "We have had to find an alternate source for  
11 the WOW product going forward." Do you mean a  
12 substitute for Luv n' care's product?

13 A. No.

14 Q. What do you mean?

15 A. I needed a substitute for a \$3 sippy cup  
16 two pack.

17 Q. And it didn't make a difference what  
18 that product looked like?

19 MR. BURATTI: Object to form.

20 BY THE WITNESS:

21 A. I didn't say that. It matters what it  
22 looks like. It doesn't matter whose name is on it.

23 BY MR. COHEN:

24 Q. But it matters what it looks like?



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1 BY THE WITNESS:

2 A. If the product looked like a milk pale,  
3 it wouldn't suffice. So then I would care. If it  
4 looked like a sippy cup, I would be satisfied with  
5 it as long as it was a sippy cup.

6 BY MR. COHEN:

7 Q. So it had to have certain appearances  
8 with respect to a sippy cup?

9 MR. BURATTI: Object to form.

10 BY THE WITNESS:

11 A. As we discussed yesterday, a vessel, a  
12 cap and a spout.

13 BY MR. COHEN:

14 Q. And that's all that was important?

15 A. That's the starting criteria.

16 Q. Do all sippy cups with vessels, spouts  
17 and caps have the same types of popularity in the  
18 market?

19 MR. BURATTI: Object to form.

20 BY THE WITNESS:

21 A. I wouldn't know what popularity refers  
22 to.

23 BY MR. COHEN:

24 Q. Referring to your sales.

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1 BY MR. COHEN:

2 Q. Who then is responsible for design  
3 changes other than consumers?

4 MR. BURATTI: Object to form.

5 BY THE WITNESS:

6 A. Again, it's a number of opportunities.

7 BY MR. COHEN:

8 Q. Mainly?

9 A. For sippy cups the manufacturer would be  
10 someplace that may come up with design changes.

11 Q. Are you aware of any design changes in  
12 the Wagi sippy cups that came from the  
13 manufacturer?

14 A. I don't recall.

15 Q. Does that mean that you do not recall  
16 any changes being made or you do not recall one way  
17 or the other?

18 MR. BURATTI: Object to form.

19 BY THE WITNESS:

20 A. I don't recall changes being made or  
21 requested.

22 BY MR. COHEN:

23 Q. Whose job would it be to request a  
24 design change?

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1 MR. BURATTI: Object to form.

2 BY THE WITNESS:

3 A. Design change for?

4 BY MR. COHEN:

5 Q. Sippy cup products.

6 MR. BURATTI: Same objection. Object to form.

7 BY THE WITNESS:

8 A. Which sippy cup products?

9 BY MR. COHEN:

10 Q. Wagi sippy cup products that we have  
11 just referred to as 582399 and 582400.

12 MR. BURATTI: Object to the form. At  
13 Walgreens?

14 BY MR. COHEN:

15 Q. At Walgreens.

16 A. Again, it could come from any number of  
17 places.

18 Q. Such as?

19 MR. BURATTI: Object to form.

20 BY THE WITNESS:

21 A. Such as consumers, factories, trade  
22 companies, buyers, category managers, the same  
23 thing there. Divisional merchandise managers up to  
24 Greg Wasson, the CEO of the company.